

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THOMAS PEREZ, Secretary of Labor,

Plaintiff,

v.

Case No. 15-C-221

EL AZTECA RESTAURANTS, INC.,

Defendant.

ORDER

The Defendant filed a motion under Civil Local Rule 7(h) seeking an order requiring the Plaintiff, the United States, to pay preparation fees and travel expenses incurred by the Defendant's expert in connection with a deposition to occur in Tampa, Florida, on March 29. Specifically, the Defendant seeks payment for two hours of travel time and twenty-one hours of preparation time, billed at the expert's rate of \$300 per hour.

The United States responds that it should not require twenty-one hours for an expert to prepare for a deposition in which he will testify about matters for which he has already prepared an expert report. Since only two months have gone by since the report was completed, the government believes it should not take more than a single hour for the expert to refresh his memory in preparation for the deposition. The Defendant responds that the expert will need to review the depositions of five witnesses totaling 34 hours of testimony.

The Defendant has not explained why its expert must review the deposition testimony of other witnesses in order to prepare to be deposed about his own opinions. As the government points out, these witnesses testified after he prepared his report, and so their testimony would not bear on

the opinions he reached. I agree with the government that the Plaintiff has not demonstrated that twenty-one hours would reasonably be spent in preparation for the upcoming deposition. Even if some review would be required, an hour of deposition testimony may be reviewed in mere minutes, as transcripts are not laden with the countless delays, pauses, rephrasings, breaks, etc., characteristic of live testimony. A more reasonable amount would be three hours.

The Defendant also seeks payment for the expert's drive to and from his home in Hudson, Florida, to Tampa, where the deposition is to take place. But, as the government notes, it was the Defendant's decision to hire this particular expert, and the government itself is undertaking significant expenses to travel from Chicago (its regional office) to Tampa, where the largest regional airport is located. Under these circumstances, payment of fees (beyond mileage, which the government will pay) would not reasonably be expected.

The motion is **GRANTED** in part. The government shall compensate the Defendant's expert for three hours of preparation time.

SO ORDERED this 21st day of March, 2016.

/s William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court